

# ***City of Alexandria, Virginia***

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## **MEMORANDUM**

**DATE:** OCTOBER 26, 2017

**TO:** POLICE STAFF

**FROM:** MICHAEL L. BROWN   
CHIEF OF POLICE

**SUBJECT: 2.3 COMPLAINTS AND DISCIPLINARY ACTIONS**

The purpose of this memorandum is to introduce the significant changes made to Police Directive 2.3 – Complaints and Disciplinary Actions. Many of these important changes have been in place and functioning for over six months; the release of this directive serves to formally place them in our written policies.

Perhaps the biggest change is the creation of the Unit Level Inquiry (ULI). The ULI gives supervisors and commanders the latitude to address more issues at the unit level allowing for a faster disposition of low level matters. More often than not, such matters are best dealt with through the use documented coaching, counseling or training, rather than relying on the formal discipline system. The updated directive also helps to clarify the procedures to follow for both ULIs and administrative investigations.

These changes also allow us to make better use of the BlueTeam and IAPro systems. As familiarity with the systems has grown, we have seen an improvement in the quality of documentation of inquiries and investigations. IAPro captures statistical data that will allow us to accurately review and refine our discipline policies and procedures going forward.

I ask that you take the time to review all of the changes to the directive and discuss any questions that you may have with your supervisor.



# Alexandria Police Department

## Directive 2.3



### COMPLAINTS AND DISCIPLINARY ACTIONS

Effective Date: **11-01-2017**

Cancels: 05-28-2015

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#### 2.3.01 POLICY/PURPOSE

The integrity of the Alexandria Police Department depends upon the personal integrity and discipline of each employee. Therefore, it is the policy of this Department to investigate all allegations of misconduct, including anonymous complaints, against the Department or its employees, and to take remedial or disciplinary action if needed. All complaints, whether initiated by citizens or Department employees, are to be thoroughly and fairly investigated, reviewed and documented. **[52.1.1]**

The purpose of this directive is to establish procedures for investigating and resolving complaints involving Department employees.

Supervisors are encouraged to initiate Unit Level Inquiries for alleged Group I and II offenses (See City AR 6-20).

*Repeated and/or multiple documented Group I and II offenses, or any Group III offense shall result in the initiation of an Administrative Investigation. Prior to the initiation of an Administrative Investigation, guidance should be sought from the Office of External Affairs and Professional Responsibility. Administrative Investigations may result in formal discipline at the direction of the Chief of Police.*

*AR 6-20 Group I, II, and III offenses are to serve as a guideline when determining appropriate action. Consult with the Office of External Affairs and Professional Responsibility with any questions or concerns.*

### **2.3.02 DEFINITIONS**

**Administrative Investigation** – Method for conducting a formal investigation into multiple Group I or Group II offenses where counseling / coaching is deemed to be ineffective or inappropriate; or any allegation of a Group III offense; or any formal investigation as designated by the Chief of Police or his/her designee.

**BlueTeam** – Web based “frontline” software component which streamlines administrative files from the field, through the chain of command, to their ultimate destination in the IAPro database. Entries may include Unit Level Inquiries, Administrative Investigations, Use of Force Investigations, Miscellaneous Entries, Awards / Commendations, Vehicle Crash Data, Firearm Discharge Data, and Pursuit Reports.

**City Administrative Regulation 6-20** – City of Alexandria Regulation which authorizes the City Manager or designee to discharge disciplinary action against employees. AR 6-20 provides purpose and policy for administering discipline to employees as well as guidelines for determining the appropriate level of discipline to impose for various levels of unacceptable performance and conduct. (SEE APPENDIX B)

**Counseling / Coaching** – When minor policy violations or performance issues are discovered, supervisory counseling / coaching may be the most appropriate way to address the issue with the subject employee. Oral or Written counseling / coaching notifies the employee of the deficient behavior and provides a means to address the behavior outside of the disciplinary system. Counseling / coaching, whether written or oral, Performance Improvement Plans (PIP), training, EAP referrals, etc. are not formal discipline and therefore are non-grievable.

**External Complaint** - Complaint or notification of policy violation made against an employee of the Alexandria Police Department by anyone outside of the Alexandria Police Department.

**Formal Discipline** – Discipline imposed by the Chief of Police as the result of an Administrative Investigation. Discipline can consist of an Oral Reprimand, Written Reprimand, Minor Suspension / Loss of Leave (3 days or less), Major Suspension / Loss of Leave (4 days or more), and Termination.

**IAPro** – Internal database used to electronically capture and catalogue information contained in administrative files. The system is managed and by the Office of External Affairs and Professional Responsibility and is only accessible by members of the Office and the Chief of Police.

**Internal Complaint** – Complaint or notification of policy violation made against an employee of the Alexandria Police Department by another member of the Alexandria Police Department.

**Unit Level Inquiry** – Method for addressing minor (Group I or Group II) policy violations / performance issues.

**Use of Force Investigation** – Method for reviewing an incident in which an employee of the Alexandria Police Department utilizes some type of reportable force.

#### **2.3.03 SCOPE OF THIS DIRECTIVE**

- A. The provisions of this directive concern alleged or suspected violations of federal statutes, state statutes, city ordinances, city administrative regulations, Departmental directives and oral or written orders.
- B. These violations include those reported by the public, either orally or in writing, by telephone or by correspondence to anyone employed by this Department. Violations also include any incidents that are observed or known by Department employees, or those reported by the City Manager's Office.

#### **2.3.04 AUTHORITY AND RESPONSIBILITIES**

- A. Responsibility for Departmental disciplinary actions rests with the Chief of Police. Except for supervisory responsibilities and emergency suspension, the Chief of Police or designee must approve all formal Department discipline. **[26.1.5]**
- B. Employees of this Department will perform the duties and assume the obligations of their rank or position in the investigation of complaints or allegations of misconduct.

- C. It will be the duty of all employees to cooperate fully with investigators assigned to conduct investigations. All employees will truthfully answer all questions directed to them by the investigators, supervisors, or commanders, as well as furnish written statements. In addition, they will give all pertinent information of which they may have knowledge that is related to the investigation in question. Employees will not encourage any other person to withhold information or to provide untruthful information during any investigation.
- D. The commander of *the Office of* External Affairs and *Professional Responsibility* will compile an Annual Statistical Summary on complaints received from both external and internal sources. This Summary will be made available to the public and to the employees of this Department. [1.3.13; 52.1.5]

#### 2.3.05 REPORTING OF VIOLATIONS

- A. All complaints will be restricted to the specific allegation(s) of misconduct, violation(s) of the law, or of Department and other lawful orders and will not include those incidents of differences of opinion relating to matters that are subject to being resolved in court.
- B. Department employees receiving complaints against other employees of this Department will immediately notify a supervisor, who will determine the need for a *Unit Level Inquiry or Administrative Investigation*. Employees will not advise complainants that a complaint must be reduced to writing before it will be accepted. Complaints will be accepted regardless of whether the complainant offers a written statement.
- C. *The commander of the Office of External Affairs and Professional Responsibility will notify the complainant when an Administrative Investigation is initiated. Notification may be made by mail, email or telephone and will be documented in the file.*
- D. The *commander of the Office of* External Affairs and *Professional Responsibility* will notify the Chief of Police immediately upon receiving complaints regarding discharge of a weapon other than at an approved range, allegations of brutality, allegations of criminal activity, allegations of sexual harassment, and other complaints of a sensitive or controversial nature as determined by *the commander of the Office of* External Affairs and *Professional Responsibility*. [52.2.2]
- E. The *commander of the Office of* External Affairs and *Professional Responsibility* will, except in those cases where confidentiality is necessary to the investigation, notify the commander of the employee and the employee of the complaint as soon as practical.

- F. When employees are notified, by being issued an APD-67 by the *commander of the Office of External Affairs and Professional Responsibility* or designee, that they have become the subject of an *Administrative Investigation*, they will be issued an Employee Rights and Responsibilities Form (APD-68), relative to the investigation.

[52.2.5]

- G. If the complaint is made in person, every effort will be made to obtain a written or recorded statement from the complainant at the time the complaint is lodged; regardless of against whom the complaint is made.
1. If the complainant is unable to complete a written statement and/or participate in a recorded interview at the time the complaint is lodged, the complaint will be accepted.
  2. The oral or written statement should include a full name, address, phone number, date of birth, social security number (voluntary), sex, and race of the complainant. *However, complainants may remain anonymous if they so choose.*
- H. If, for reasons bearing upon the impartiality of the investigation or the need for secrecy, any person believes that a complaint may not be handled properly if reported through the normal channels as outlined, they may report directly to the *commander of the Office of External Affairs and Professional Responsibility*, or if necessary, the Chief of Police.

2.3.06	<b>UNIT LEVEL INQUIRY PROCEDURES</b>
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- A. Complaints of *Group I offenses* will be *handled* by the employee's immediate supervisor *through the Unit Level Inquiry process. Supervisors receiving complaints involving Group II offenses should discuss and collaborate with their commander to determine whether to proceed with the Unit Level process or to initiate an administrative investigation (see 2.3.07).*
- B. *Employees initially receiving a complaint (Internal or External) will document the complainant's contact information and a brief summary of the allegation. This information will be forwarded to the subject employee's immediate supervisor for follow up.*
- C. *The subject employee's immediate supervisor will make contact with the initial complainant and conduct a recorded interview, detailing the nature and facts surrounding the allegation.*
- D. *The subject employee's immediate supervisor will generate a Unit Level Inquiry in BlueTeam and input all appropriate information including a detailed summary of the allegation on the "summary" page.*



- E. The subject employee's supervisor will take the appropriate action to determine the validity of the complaint and document those efforts in BlueTeam.*
- F. Additional documentation, if any, should be attached to the incident in BlueTeam (Photographs, APD7, Recordings, etc.)*
- G. The employee's immediate supervisor shall determine if counseling / coaching is appropriate based on the findings of the inquiry. If appropriate, the supervisor shall administer counseling (oral / written). Documentation of this counseling session shall be attached to the Unit Level Inquiry in BlueTeam. If counseling is not appropriate (no violation occurred) this must also be documented and attached to the Unit Level Inquiry in BlueTeam.*
- H. If, during the course of the Unit Level Inquiry, a Group III offense is alleged or discovered, the investigator will take appropriate action as outlined below in 2.3.07.*
- I. Once the Unit Level Inquiry is complete it will be forwarded via BlueTeam to the Office of External Affairs and Professional Responsibility ensuring the Investigator's supervisor is copied on the forward.*
- J. Unit Level Inquiries are considered to be part of an employee's Unit Level File and will be purged from the employee's record on a rolling 24 month schedule.

#### **2.3.07 ADMINISTRATIVE INVESTIGATION PROCEDURES**

- A. Commanders will consult with the Office of External Affairs and Professional Responsibility prior to initiating an Administrative Investigation. An Administrative Investigation should be initiated for complaints alleging:
  - 1. a Group III offense,
  - 2. Group II offenses where a Unit Level Inquiry/counseling would not be appropriate, or
  - 3. repeated Group I or Group II violations where counseling is deemed insufficient.*
- B. The Office of External Affairs and Professional Responsibility will complete a Complaint/Inquiry Form (APD-67) and open the investigation in IAPro. The APD67 will be forwarded to the supervisor of the employee via BlueTeam for service to subject of the investigation.*
- C. The Office of External Affairs and Professional Responsibility will assign an Administrative Investigation number and assign to the appropriate investigator as determined by the Commander of the Office of External Affairs and Professional Responsibility.*

- D. *The commander of the Office of External Affairs and Professional Responsibility has the authority and discretion to assign any Administrative Investigation to division commanders.*
- E. Investigations to be conducted by units outside of the Office of External Affairs and Professional Responsibility shall be forwarded to the appropriate Division Commander or Captain for assignment. Such commander will promptly notify the Office of External Affairs and Professional Responsibility of the name of the investigator assigned to the case.
  - 1. All investigations must be completed and approved by the Division Commander or Captain and Bureau Commander responsible for the assignment and forwarded directly to *the Office of External Affairs and Professional Responsibility* within 45 calendar days. **[52.2.3]**
  - 2. Requests for extensions of the 45-calendar day limit must be forwarded to the commander of the Office of External Affairs and Professional Responsibility from the assigned Division Commander or Captain and will be approved only when sufficient justification is present.
- F. All investigations conducted by supervisors or commanders will be forwarded via BlueTeam through the chain of command to the Office of External Affairs and Professional Responsibility for review, before being forwarded to the Chief of Police.
- G. Generally, the Office of External Affairs and Professional Responsibility will investigate all matters involving: the use of deadly force; incidents likely to result in civil litigation; alleged employee conduct of a real or potentially criminal nature.
  - 1. *All Investigations conducted by the Office of External Affairs and Professional Responsibility must be completed within 45 days. The Chief of Police may grant an extension of time for investigations when, as deemed by him, there are extenuating circumstances.*
  - 2. In instances of a criminal allegation, the Criminal Investigations Section will investigate the criminal aspect of the allegation. The Office of External Affairs and Professional Responsibility will conduct a subsequent Administrative Investigation into the policy aspect of the allegation.
- H. Written statements and/or recorded interviews will be obtained from the employee and witnesses, whenever possible. If the complaint is found to be valid, these statements and other relevant evidence will form the basis for any disciplinary action.
- I. The investigator will provide a status report to the employee being investigated every 30 days on information relative to the disposition of the case. Investigative status notifications and the manner in which the notification was made will be documented in the file.



- J.** The commander of the Office of External Affairs and Professional Responsibility will notify the complainant concerning the status of the complaint(s) against the Department or its employee(s) every 60 work days and/or at the conclusion of an investigation. Only information relative to the disposition of the case will be released. Investigative progress status notifications may be made in writing or by telephone and will be documented in the file. **[52.2.4a,b]**
- K.** When an investigation is completed, the investigator will include their conclusion of fact and recommend that the complaint result in a finding of: **[52.2.8]**
1. Unfounded: The allegation is false or not factual.
  2. Exonerated: The incident complained of occurred but was lawful and/or proper.
  3. Not Sustained: There is insufficient evidence either to prove or disprove the allegation.
  4. Sustained: The allegation is supported by sufficient evidence.
  5. Policy Review: The allegation is true and, although the action of the employee was within existing policy, the policy should be reviewed. (As a part of this finding, the employee's Internal Investigations log will show "Policy Review" as the disposition.)
- L.** Upon completion of the Office of External Affairs and Professional Responsibility review, all investigation reports will be forwarded to the Chief of Police who may accept the recommendations, remand the report for further investigation, or change the report recommendations.
- M.** The final results of all investigations will, upon approval of the Chief of Police, be conveyed by the Commander of the Office of External Affairs and Professional Responsibility to the employee and his or her commander.
- N.** All final investigation memorandums should be written in the format specified in Appendix A and included as an attachment in BlueTeam. When disciplinary charges result from a police vehicle accident, copies of all required reports, to include photographs of damage to vehicles or property, shall be included with the written memorandum. **[1.3.6]**
- O.** Access to investigative files will be limited to the Chief of Police, Office of External Affairs and Professional Responsibility personnel, and others approved by the Chief of Police. **[52.1.10]**

**2.3.08 SUSTAINED COMPLAINTS**

- A. Once cases are completed, the Office of External Affairs and Professional Responsibility will send a Notice of Investigation Results to the affected employee(s) through the chain of command via BlueTeam.
- B. When a commander receives a memorandum from the Office of External Affairs and Professional Responsibility instructing him or her to impose disciplinary action, up to and including a written reprimand, on an employee within his or her command, the commander will implement the disciplinary action by the due date on the memorandum, or contact the Office of External Affairs and Professional Responsibility to explain any delay. The commander will return this memorandum (and written reprimand when directed) after the disciplinary action has been implemented, noting the date of completion. If training is involved, the commander will send the original memorandum back noting when training has been scheduled, and send a follow-up memorandum when training has been completed.
- [26.1.4.a; 33.1.5]**
- C. Discipline can be implemented when the notice is received by the employee, except under the following circumstances:
1. Whenever the employee notifies their supervisor and the Office of External Affairs and Professional Responsibility within 48 hours of notice that he or she does not intend to accept the discipline, an internal review will be available prior to implementing the discipline. The employee must request the internal review.
- [26.1.6]**
2. Even if the employee decides immediately to accept the discipline at the time of notification, he or she does not waive the right to appeal the action.
  3. Whenever the case involves major discipline, which includes termination, demotion, major suspension of more than three days or loss of more than three days of annual leave.
- D. When the discipline includes a major or minor suspension, loss of leave, or any action more severe than a written reprimand, the discipline shall only be imposed by the Office of External Affairs and Professional Responsibility in conjunction with the *Human Resources and Recruitment Section*.
- E. Records of formal disciplinary actions will be retained in an employee's Department personnel file for two (2) years. Records over two (2) years old will be purged from the Department personnel files in July of every year. The City's Human Resource Department will retain copies of disciplinary actions in their files until the file is scheduled for destruction after retirement, termination, resignation, etc.

**[26.1.8; 52.1.2]**

**2.3.09 SPECIAL PROCEDURES FOR ALL EMPLOYEES**

- A. All employees of this Department may be required to undergo medical and/or laboratory examination(s); or submit to a polygraph, upon the approval of the Director of Human Resources, City Attorney's and/or Commonwealth's Attorney's office(s). Employees may also be required to be photographed; participate in a line-up and/or submit financial disclosure statements when requested. **[52.2.6]**
- B. When a complaint is received (or the assigned investigator concludes) that the incident is of a criminal nature, the employee receiving the complaint will immediately contact the *Commander of the Office of Professional Responsibility* who will, in turn, contact the Chief of Police and the commander of the employee. A decision will then be made to arrest the employee forthwith, obtain a warrant, or delay action pending further investigation. **[52.1.3, 52.2.2]**
- C. When it becomes known that a warrant has been issued in any jurisdiction for an employee, this information will be directed to the on-duty patrol commander who will notify the Chief of Police, *Commander of the Office of Professional Responsibility*, and the commander of the employee.
- D. When a warrant has been served on an employee prior to the investigator's or the Department's knowledge, the employee learning of or serving the warrant will immediately notify the on-duty patrol commander. The patrol commander will proceed as in section C above.

**2.3.10 ADMINISTRATIVE LEAVE IMPOSED BY THE CHIEF OF POLICE**

- A. Pursuant to City Administrative Regulation 6-18, where unusual circumstances preclude an employee from fully or satisfactorily fulfilling the duties of his/her position, the Chief of Police, with the approval of the City Human Resources Director, may place an employee on administrative leave. Such leave may be with or without pay, for periods of time not to exceed 90 calendar days on any single occasion. Employees placed on administrative leave are notified in writing. **[52.2.7]**
- B. Employees placed on Administrative Leave under this section remain subject to all Department rules, policies and procedures. Sworn personnel may have their police powers temporarily suspended for the duration of the administrative leave period at the discretion of the Chief of Police.
- C. When their police powers are suspended, officers will surrender all Department issued police credentials, badge, issued/assigned weapon(s), extra magazines, radio, MDB, access cards, and take-home vehicle (if assigned) to the commander of

the Office of External Affairs and Professional Responsibility or their designee. While in this status, employees are not allowed to operate any Department vehicles or work any extra-duty or secondary employment. They must, however, appear in court on scheduled dates or when lawfully subpoenaed.

- D. Employees on Administrative Leave are to remain available to be called Monday through Friday between 0800 hours and 1600 hours and will provide a telephone number at which they can be reached.
- E. When placing employees on Administrative Leave, the Office of External Affairs and Professional Responsibility will notify [Human Resources and Recruitment](#), Facilities, and IT staff, as needed.

#### **2.3.11 TEMPORARY RELIEF OF DUTY**

- A. A division commander, the commander of the Office of External Affairs and Professional Responsibility, or a higher authority may temporarily relieve an employee of duty when it reasonably appears that such action is in the best interest of the Department. Such relief of duty may occur when an authority determines, in his or her judgment, that the employee is under a physical or mental condition which might render the employee incapable of adequately performing duties or make it likely that he or she will perform them in such a way as to embarrass or discredit the Department or jeopardize the safety of any person or property. Temporary relief of duty may also occur when there is substantial evidence to believe that the employee has committed an act or omission of such a flagrant nature as to render his or her continued presence on this Department a source of embarrassment. **[52.2.7]**
- B. Whenever possible upon relieving any employee under this section, the imposing commander will immediately notify the Chief of Police, the commander of the employee, and the [commander of the Office of External Affairs and Professional Responsibility](#), regardless of the time of day. **[52.2.2]**
- C. When relieved of duty under this section, the employee will continue to receive normal City pay. Officers will be relieved of all law enforcement functions and will deliver to the imposing division commander all Department issued police credentials, badge, issued/assigned weapon(s), extra magazines, radio, MDB, access cards, and take-home vehicle (if assigned).
- D. An employee receiving a temporary relief of duty under this section will be required to report to the Office of External Affairs and Professional Responsibility, accompanied by his or her commanding officer on the next business day at 10:00 a.m. unless otherwise directed by competent authority. The commanding officer imposing the temporary relief of duty will also report at this time.

- E. An employee receiving a temporary relief of duty under this section may be required to submit to a fitness for duty evaluation prior to being reinstated to a full duty status.

**By Authority of:**

**Michael L. Brown  
Chief of Police**

[REDACTED] [REDACTED]  
 [REDACTED] [REDACTED]

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## Administrative Regulations Details

**Supersedes:**  
A.R. 6-20 dated  
November 15, 1993

**Title:**  
DISCIPLINE OF EMPLOYEES

**Number:** 6 - 20

**Effective Date:** 08-  
01-1997

**Related  
Documents:**  
Instructions to Serving  
Supervisor

**Sections:** I - IX

**Chapter:** Personnel

### I. AUTHORITY

The Charter of the City of Alexandria (Sections 4.03 and 8.05) authorizes and empowers the City Manager or her designee to appoint and, for cause, to discharge or otherwise discipline department heads and other officers and employees of the City.

### II. PURPOSE

This Administrative Regulation establishes the policy of the City Manager to be utilized whenever disciplinary action is warranted.

City employees are to conduct themselves in a manner that reflects the highest standards of work performance and personal integrity. Employees are subject to discipline for their behavior, whether on or off the job, when it reflects adversely upon the City.

### III. DEFINITIONS

#### A. Administrative Review

An opportunity for an employee against whom a major disciplinary action has been recommended to present to the Director of Personnel Services or a designee of the City Manager information and reasons as to why the recommended disciplinary action should not be implemented.

#### B. Demotion

Disciplinary reduction in rank and salary or in grade and salary.

#### C. Director

Director of the Department of Personnel Services.

D. Disciplinary Action

An action against an employee which is based upon, and is designed to discipline an employee for, his/her unsatisfactory performance and/or unacceptable conduct.

E. Leave Pending Administrative Review

Administrative leave, with or without pay, for an employee against whom a major disciplinary action has been recommended to the Director of Personnel Services, pending the administrative review of and the Director's decision on the recommended action. When an FLSA-exempt employee is placed in leave without pay status pending administrative review, it shall be for a normally scheduled work week or multiples of a work week.

For fractions of a normally scheduled work week, the administrative leave shall be charged to annual leave and/or compensatory time.

F. Loss of Annual Leave

Disciplinary reduction of an employee's annual leave balance.

G. Major Disciplinary Action

A termination, demotion, major suspension or loss of more than three days of annual leave.

H. Major Suspension

Disciplinary removal of an employee from paid status for more than three working days.

FLSA-exempt employees may not be removed from paid status for disciplinary reasons unless the suspension is for a full work week. More severe suspensions must be in multiples of work weeks. The one exception to this rule is that FLSA-exempt employees may be removed from paid status for disciplinary reasons for less than a full work week for violations of safety rules of major significance.

I. Minor Suspension

Disciplinary removal of an employee from paid status for not more than three working days. FLSA-exempt employees may not be removed from paid status for disciplinary reasons for less than a full work week, except for violations of safety rules of major significance.

J. Oral Reprimand

Oral notification to an employee by a superior of performance or conduct which is not satisfactory or appropriate

K. Termination

Disciplinary separation of an employee from employment with the City.

L. Written Reprimand

A formal notification issued in writing to an employee by a superior of performance or conduct which is not satisfactory or appropriate.

IV. PROGRESSIVE DISCIPLINE

It is the policy of the City that disciplinary action should be remedial in nature and that termination, which constitutes the severest form of disciplinary action, should be utilized only in the event of serious or repeated offenses. Normally, disciplinary action should be progressive, ensuring that efforts are directed to encouraging employees to understand fully the nature of their conduct and their obligations to the City. However, it is recognized that there are some types of conduct and some levels of performance which provide a reasonable basis for termination upon the first offense. See Section IX below.

The implementation of discipline shall be at a level deemed appropriate in view of the seriousness of the employee's deficient performance or conduct and the employee's prior work record. Depending upon the circumstances of the matter, disciplinary action may be imposed at any level of severity. A single serious offense, such as one of those listed in Group III (see Section IX), or an accumulation or a pattern of less serious offenses, whether related or unrelated, may form a reasonable basis for invoking a major disciplinary action.

Disciplinary actions include the following: oral reprimand; written reprimand; loss of annual leave; leave pending Administrative Review; minor suspension; major suspension; demotion; and termination.

V. REVIEW OF DISCIPLINE

A. Major Disciplinary Actions.

1. No major disciplinary action may be implemented against an employee until after a major disciplinary action has been recommended by the employee's department head to the Director (or another designee of the City Manager), an opportunity for an Administrative Review has been provided to the employee and, following such Administrative Review, the Director (or other designee of the Manager) has confirmed the imposition of the disciplinary action.
2. At the time a department head recommends that a major disciplinary action be taken against an employee, the department head shall notify the employee, in writing, of the recommendation and the basis for the recommendation. In this same written notice, the department head shall inform the employee of the opportunity for an Administrative Review of

the recommended disciplinary action, of the steps which the employee must take in order to obtain the Administrative Review, and of the dates by which such steps must be taken.

3. Notwithstanding any provision to the contrary in A.R. 6-18, a department head who recommends that a major disciplinary action be taken against an employee may place the employee on leave, with or without pay, pending the Administrative Review of the recommendation; provided, that prior to placing an employee on leave without pay pending Administrative Review, the department head or designee shall provide the employee an opportunity to present the reasons why he/she should not be placed on such leave.
4. In cases where the City Manager has not specifically designated another individual, the Director shall conduct the Administrative Review of the department head recommendation for a major disciplinary action and, following such review, shall confirm, modify or reject the recommendation.
5. During the Administrative Review of the recommended action, the employee may present to the Director, in writing and/or person, his/her reasons why the recommended action should not be implemented. The employee must make his/her written submission to, and must meet with, the Director within seven calendar days of the date of the written notice issued to the employee under Section 2 above; provided, that the Director may, for good cause shown by the employee, enlarge this period for up to an additional seven calendar days. A representative of the employee may be present during, but may not participate in, any verbal presentation the employee makes during the Administrative Review.
6. Following review of the recommended major disciplinary action and the written and/or verbal presentation by the employee, the Director shall decide whether to confirm, modify or reject the recommended action. If the recommended action is confirmed, the Director shall sign an appropriate personnel action form implementing the disciplinary action. Any decision by the Director to confirm a recommended termination shall be referred to the City Manager's attention by the Director within 48 hours of the decision. In the event that the recommended action is modified or rejected by the Director or, in the case of termination, the City Manager, any benefits and/or salary lost by the employee as a result of the recommended action shall, if deemed appropriate by the Director, be restored to the employee. Any decision by the Director to modify or reject a recommended major disciplinary action may, within seven calendar days of the Director's decision, be appealed by the department head to the City Manager, who may confirm, reject or modify the Director's decision.

B. Other Disciplinary Action

1. Any disciplinary action listed in Section IV which is not a major disciplinary action may be implemented on the departmental level by department heads and supervisors. However, the Director or his designee



shall review any such disciplinary action before any record reflecting or describing it may become part of an official employee record. In the event that, in the course of such review, the Director or his designee determines that the disciplinary action was inappropriate, the Director may cause the action to be rescinded and, if appropriate, other disciplinary action imposed. In addition, in the event that a disciplinary action is rescinded by the Director, any benefits and/or salary lost by the employee as a result of that action shall be restored, less any benefits and/or salary which the employee would have lost if the other disciplinary action imposed by the Director had been previously imposed.

2. Within three working days of imposing a minor suspension or a loss of three or fewer days of annual leave, a department head or supervisor shall notify the employee, in writing, of the basis for the suspension or loss of leave. A copy of such notice shall be forwarded to the Department of Personnel Services for review by the Director under Section 1 above and for inclusion in the employee's official personnel file.
3. Oral reprimands are the lowest form of discipline. Although no record of an oral reprimand is kept in the employee's official personnel file, a supervisor giving an oral reprimand to an employee must say the words, "This is an oral reprimand." If the supervisor discusses a performance problem with an employee and fails to say, "This is an oral reprimand," the employee has been counseled and not disciplined. Any oral reprimand shall include an explanation of the proper performance or conduct expected of the employee and a warning that the continuation of the performance or conduct causing the reprimand, or similar performance or conduct, will result in further discipline. The supervisor must note in the employee's departmental file that the employee was given an oral reprimand and notify the department head through the chain of command that an oral reprimand was administered.
4. A written reprimand shall include an explanation of the proper performance or conduct expected of the employee and a warning that the continuation of the performance or conduct which caused the written reprimand, or similar performance or conduct, will result in further discipline, including suspension or termination. A copy of any written reprimand shall be forwarded to the Department of Personnel Services for review by the Director (see Section 1, above) and for inclusion in the employee's official personnel file.
5. Any disciplinary action other than the actions listed in Section IV may not be implemented without the approval of the Director.

#### VI. PHYSICAL AND/OR MENTAL INCAPACITY

- A. If a department head's recommended termination is based upon the employee's physical and/or mental incapacity to perform the usual and customary duties and responsibilities of his/her position, a letter to that effect shall so inform the

employee and shall inform him/her of the opportunity for an Administrative Review of the recommended termination. Before such a recommendation is made, the department head shall determine that all reasonable efforts to accommodate the physical and/or mental incapacity of the employee have been made and that these accommodations have not enabled the employee to perform the usual and customary duties and responsibilities of his/her position. This letter shall be in lieu of the notice required by Section V.A.2. All other notice and procedural requirements applicable to termination under Section V shall apply to a termination for physical and/or mental incapacity.

- B. An employee who is terminated due to his/her physical and/or mental incapacity to perform the usual and customary duties and responsibilities of his/her position shall have full access to the customary benefits, rights and procedures of an employee who voluntarily terminates his/her employment with the City.

## VII. ADMINISTRATIVE INQUIRY

- A. A department head may initiate an Administrative Inquiry into any suspected improper or unauthorized activity on the part of one or more employees in his/her department which may form the basis for a disciplinary action. Department heads must seek and receive permission from the Director in order to initiate Administrative Inquiries. Department heads shall consult with the Director, Chief of Police, and City Attorney about possible illegal or criminal matters. The Director shall notify the City Manager if the Chief of Police and City Attorney recommend criminal investigation.

Not all employee activities that may result in discipline require an Administrative Inquiry. Routine problems with attendance and leave or employee job performance do not typically require an Administrative Inquiry. The department head should consult the Director if he/she needs assistance in determining whether an Administrative Inquiry is necessary.

1. If an Administrative Inquiry appears to involve more than one City department or agency, the department head who initiated the inquiry shall notify the Director. The Director shall ask the department head of the other department or agency to designate a representative to participate in the Administrative Inquiry.
2. In the course of an Administrative Inquiry, if the persons conducting the Administrative Inquiry have reason to believe that a criminal act or violation of the law may have occurred, they will notify the department head(s) and the Director immediately. The Director shall ask the Chief of Police and City Attorney to review the matter for possible criminal investigation. The Administrative Inquiry must halt during the criminal investigation. It may resume pending the approval of the Director.
3. The City Manager may also direct the Director or a department head to initiate an Administrative Inquiry under this section.

- B. All employees shall cooperate fully with the City officers and employees conducting an Administrative Inquiry. Any employee who fails to cooperate fully or who provides false testimony or information in the course of an Administrative Inquiry shall be subject to disciplinary action, including termination.

Personnel information is confidential and is not to be disclosed. Administrative inquiries are confidential processes and employees are required to keep the information discussed in confidence. Any employee who discusses the progress of an investigation will be subject to disciplinary action, including termination. (See A.R. 6-1, Code of Ethics, Section VII A.1.)

- C. Except as provided in Section D.4, employees may not be represented by counsel or an employee representative during an Administrative Inquiry, but shall be entitled to representation during any ensuing disciplinary action.
- D. In the course of an Administrative Inquiry, employees may be required to participate in a polygraph examination if there is reasonable cause to believe that they may have engaged in conduct which would form the basis for disciplinary action. Polygraph examinations shall, to the extent possible, be completed within a reasonable time, and they shall be done under circumstances devoid of intimidation or coercion. Any requirement that an employee participate in a polygraph examination shall have the prior written approval of the City Attorney. The requirement that an employee participate in a polygraph examination shall be conveyed to the employee in a written document, over the signature of his/her department head and either the Director or the City Manager, which contains the following information:
1. The employee must be notified that the subject of the polygraph examination will be limited to the subject of the Administrative Inquiry. Unless the employee otherwise consents, all questioning shall be limited in scope to activities, circumstances and events involving or pertaining to conduct of the employee which may form the basis for disciplinary action against him/her. However, in the course of a polygraph examination, for establishing controls and proper response measurement levels, questions irrelevant to the Administrative Inquiry may be asked so long as such questions pertain to matters that reasonably appear to be irrelevant to the inquiry, and the answers to the questions are readily verifiable independent of the answers of the employee.
  2. The employee must be notified that the polygraph examination will be given by a licensed examiner and will be conducted in accordance with the Virginia Department of Commerce's regulation on polygraph examiners.
  3. The employee must be notified that his/her refusal to participate in the required polygraph examination may subject him/her to disciplinary action, including termination.
  4. The employee must be notified that he/she may consult with a representative or legal counsel prior to but not during the examination.

In addition, in order for an employee to be required to participate in a polygraph examination, the employee must be notified in writing by the Commonwealth's Attorney that criminal charges against him/her will not result from participation in the polygraph examination and that none of the information he/she provides in the course of the examination will be used by the law enforcement officials or others in developing or bringing criminal charges against him/her.

## VIII. RECORDS

Records of disciplinary action taken against an employee shall be kept in the employee's official personnel file and shall be kept confidential to the degree required by Virginia law. Records of Administrative Inquiries shall be retained by the department or office conducting the inquiry, shall be kept separate from other records and shall be kept confidential to the degree required by Virginia law. Records of employee grievances shall be kept in the employee's grievance file and shall be kept confidential to the degree required by Virginia law.

## IX. GUIDELINES

The guidelines below are provided for management officials to be used in determining the appropriate level of discipline to impose for various levels of unacceptable performance and for various types of unacceptable conduct. The examples given are not intended to be all inclusive, and they are not binding on management officials. In determining the level of discipline to impose, managers should consider the employee's prior work and disciplinary record and any mitigating or aggravating circumstances which may exist.

### A. GROUP I OFFENSES

The first group of offenses include behaviors and job performances which are not severe in nature but which require correction in the interest of maintaining a productive and well-managed work force. Generally, supervisors should attempt to address a first offense with an oral reprimand and a second offense with a written reprimand.

First Offense - Oral or Written Reprimand

Second Offense - Written Reprimand, Loss of Annual Leave, Suspension

Third Offense - Suspension, Demotion or Termination

Fourth Offense - Termination

- Unsatisfactory attendance or excessive tardiness.
- Inadequate or unsatisfactory job performance.
- Smoking in unauthorized areas.



- ⌚ Unauthorized time away from the work area or a failure to notify supervisor promptly of completion of assigned work.
- ⌚ Failure to establish and maintain harmonious working relationships with co-workers, supervisors and the public.
- ⌚ Unauthorized removal of City notices, signs or other appropriate materials from bulletin boards on City property.
- ⌚ Violation of established rules regarding use of City bulletin boards.
- ⌚ Malicious behavior, loafing, horse play, or similar conduct.
- ⌚ Carelessness in the observance of departmental rules or disregard of common safety practices.
- ⌚ Failure to report any personal injury or equipment damage or loss immediately to one's supervisor.
- ⌚ Vending, solicitation or distribution of materials or services without permission during working hours.
- ⌚ Wearing attire or maintaining personal appearance which is obscene or offensive or inappropriate to such a degree that it interferes with the proper functions of the workplace or the proper performance of the individual's job.
- ⌚ Failure to keep the proper City officials informed of home address and phone number.
- ⌚ Accidental or unintentional introduction of one or more computer viruses to any City computing system, or failure to report a computer virus in a timely manner.

#### B. GROUP II OFFENSES

Second group offenses include behaviors and job performance problems which are severe and which form a reasonable basis for more stringent initial disciplinary action.

First Offense - Written Reprimand, Loss of Annual Leave, Suspension

Second Offense - Suspension, Demotion, Termination

Third Offense - Termination

Fourth Offense - Termination

- ⌚ Performing personal work on City time or with City equipment.
- ⌚ Absence without approved leave for less than three days.

- ⌚ Failure to follow supervisor's instructions (insubordination) or otherwise comply with applicable established policy.
- ⌚ Violating safety rules or Virginia Traffic Code while driving City or other public vehicles where such violation does not involve a threat to life.
- ⌚ Working when ability is impaired by alcohol or drugs.
- ⌚ Engaging in gambling, lottery, games of chance or betting on City property or during working hours.
- ⌚ Failure to report to work without proper notice to supervisor.
- ⌚ Leaving work prior to the end of the work day or tour of duty.
- ⌚ Failure to report an accident in which the employee was involved.
- ⌚ Making false, discriminatory, or malicious statements concerning any employee, supervisor, the public, the City or its operations.
- ⌚ Failure to perform overtime work without good reason after being assigned to work overtime.
- ⌚ Unauthorized or improper use of any type of leave.
- ⌚ Sleeping or appearing to be asleep during working hours.
- ⌚ Unauthorized disclosure of another employee's personal computer access code.
- ⌚ Issuing unauthorized correspondence to the public on City stationery.
- ⌚ Use of foul, obscene, profane, abusive or sexually offensive language toward co-workers, supervisors or the public.

#### C. GROUP III OFFENSES

Third group offenses include behaviors and job performance problems of such a serious nature that a first occurrence normally warrants termination.


- ⌚ Absence without approved leave for three consecutive days.
- ⌚ Possession, distribution or use of alcohol or controlled substances while on the job.
- ⌚ Falsifying records such as, but not limited to: vouchers, travel records, reports, insurance claims, time records, leave records, employment applications or other official City documents.



- ⌚ Permitting another person to use City identification, using another person's City identification card, or altering a City identification card.
- ⌚ Willfully or negligently damaging, defacing or destroying City records, City property, tools or equipment, or the property of another employee.
- ⌚ Theft, misappropriation or unauthorized removal of City records, or of public property or of property belonging to another City employee.
- ⌚ Acts of physical violence, fighting or endangering the health or safety of others.
- ⌚ Violating safety rules or the Virginia Traffic Code where such a violation poses a threat to life.
- ⌚ Use of undue influence to gain or attempt to gain promotion, leave, favorable assignment or other individual benefit.
- ⌚ Unauthorized possession or use of firearms, dangerous weapons or explosives on the job.
- ⌚ Threatening or intimidating subordinates, fellow employees, supervisors or members of the public.
- ⌚ Willful or serious neglect in the performance of assigned duties or in the care, use, or custody of any City property.
- ⌚ Making false claims or misrepresentation, or withholding information in an attempt to obtain sickness or accident benefits, workers compensation, unemployment compensation benefits or other items or benefits of value.
- ⌚ Criminal or other misconduct occurring on or off the job which is related to job performance or is of such a nature that to continue the employee in the assigned position or in any City employment capacity would constitute negligence in regard to the City's duties to the public or to other City employees.
- ⌚ In any matter within the jurisdiction of any officer, department or agency of the City: (a) the knowing falsification, concealment or cover-up of a material fact, and/or (b) the knowing making of any false, fictitious or fraudulent statement or representation, and/or (c) the making or using of any writing or document knowing the same to contain a false, fictitious or fraudulent statement or entry.
- ⌚ Misuse, alteration, destruction, concealment or removal of City records such as letters, memoranda, and/or blueprints and/or lists without prior authority from the City.
- ⌚ Disclosure of records, documents or information which the employee

knows or should have known to be confidential.

- ⌚ Instigating, leading or participating in any walkout, strike, refusal to return to work at the scheduled time, restriction of production, or interference with work in or about the City's work areas.
- ⌚ Failure to satisfactorily complete a required training program that is part of a job assignment.
- ⌚ Sexual conduct, even consensual conduct, on the job.
- ⌚ Failure to obtain or maintain a current license or certificate required by law or organizational standards as a condition of employment.
- ⌚ Intentional introduction or repeated unintentional introduction of one or more computer viruses to any City computing system.
- ⌚ Unauthorized disclosure, to any individual or group, of City computer data, either in electronic or printed form.
- ⌚ Unauthorized modification of computer records, either in electronic or printed form.
- ⌚ Verbal or other conduct regarding an individual or group that maligns or shows hostility for the individual or group because of race, color, religion, gender, national origin, age, disability, or sexual orientation.



Vola Lawson  
City Manager